

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROBERT WESLEY TAYLOR II,

Plaintiff,

CIVIL ACTION NO. 07-CV-12723-DT

vs.

DISTRICT JUDGE DENISE PAGE HOOD

DETROIT, CITY OF,

MAGISTRATE JUDGE MONA K. MAJZOUN

Defendant.

**OPINION AND ORDER DENYING
PLAINTIFF'S MOTION FOR DISCOVERY**

This matter comes before the Court on Plaintiff's "Motion for Discovery Under FRCV Rule 34" filed on August 31, 2007. (Docket no. 8). Defendant responded to this Motion on October 1, 2007. (Docket no. 13). The Court held oral argument on the motion on October 10, 2007. The matter has been referred to the undersigned for decision under 28 U.S.C. § 636(b)(1)(A). (Docket no. 10). The motion is now ready for ruling.

Plaintiff is proceeding *pro se* and filed this action against the City of Detroit apparently because he has been ticketed for having an abandoned vehicle on his property. (Docket no. 1). In the present Motion, Plaintiff asks the City to produce certain documents. Defendant responds that the Motion is not proper because Plaintiff failed to serve Defendant with a request to produce these documents prior to filing this Motion. Defendant also argues that when Plaintiff filed this Motion the conference pursuant to Fed. R. Civ. P. 26 had not been held. Finally, Defendant contends that the Motion is unduly burdensome and that it does not possess all of the material requested.

Rule 34, Fed. R. Civ. P., governs requests for the production of documents. The Rule anticipates that the parties will conduct discovery among themselves and only move to compel

documents by court order as a last resort. Plaintiff has not shown that he sought these documents under Rule 34 prior to filing this motion. This Motion must be construed as a motion to compel pursuant to Fed. R. Civ. P. 37. Such a motion is premature because Plaintiff made no request under Rule 34. Plaintiff's Motion for Discovery will therefore be denied. During oral argument the Court explained to Plaintiff the steps he now should take to properly request these documents from the City.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Discovery (docket no. 8) is **DENIED.**

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: October 11, 2007

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Counsel of Record on this date.

Dated: October 11, 2007

s/ Lisa C. Bartlett
Courtroom Deputy